



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 240130-0028]

RIN 0648-BM65

Pacific Island Fisheries; Annual Catch Limits and Accountability Measures for Main Hawaiian Islands Kona Crab for Fishing Years 2024-2026

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement an annual catch limit (ACL) and an annual catch target (ACT) for main Hawaiian Islands (MHI) Kona crab for fishing years 2024, 2025, and 2026. This proposed action would not revise, add, or remove current accountability measures (AMs) in the regulations. NMFS will close Federal waters to Kona crab fishing for the remainder of the fishing year if NMFS projects the fishery will reach the ACT. NMFS will reduce the ACT and ACL the subsequent fishing year by the overage if landings exceed the ACL. This proposed rule supports the long-term sustainability of MHI Kona crab.

DATES: NMFS must receive comments by *[insert date 30 days after date of publication in the **FEDERAL REGISTER**]*.

ADDRESSES: You may submit comments on the proposed rule, identified by NOAA-NMFS-2024-0017, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-2024-0017, in the Search box (note: copying and pasting the FDMS Docket Number directly from this document may not yield search results). Click on the "Comment" icon, complete the required fields, and enter or attach your comments.
- *Mail:* Send written comments to Sarah Malloy, Acting Regional Administrator, NMFS Pacific Islands Regional Office (PIRO), 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period will not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Pursuant to the National Environmental Policy Act, the Western Pacific Fishery Management Council (Council) and NMFS prepared a 2021 environmental assessment (EA) and draft 2023 supplemental information report (SIR) that support this proposed action. The EA and SIR are available at <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Savannah Lewis, NMFS Pacific Islands Regional Office (PIRO) Sustainable Fisheries, 808-725-5144.

SUPPLEMENTARY INFORMATION:

NMFS and the Council manage the Kona crab fishery in the U.S. Exclusive Economic Zone (Federal waters) around Hawaii under the Fishery Ecosystem Plan for the Hawaiian Archipelago (FEP), as authorized by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (50 CFR Part 665). The FEP contains a process for the Council and NMFS to specify ACLs, ACTs, and AMs (see 50 CFR 665.4). NMFS must specify ACLs and AMs for each stock and stock complex of each management unit species (MUS) in an FEP, as recommended by the Council, and must consider the best available scientific, commercial, and other information about the fishery. If a fishery exceeds an ACL, the regulations require the Council to take action (e.g., an AM reducing the ACL for the subsequent fishing year by the amount of the overage). ACTs can be used as an additional management measure to help ensure catch does not exceed the ACL.

This proposed rule would establish for the MHI Kona crab an ACL of 30,802 lb (13,972 kg) and an ACT of 25,491 lb (11,563 kg) (see table 1).

Table 1—Proposed Annual Catch Limits and Annual Catch Targets for Main Hawaiian Islands Kona Crab

Fishing year	2024	2025	2026
ACL (lb)	30,802	30,802	30,802
ACT (lb)	25,491	25,491	25,491

The fishing year begins on January 1 and ends on December 31, and catch from both State and Federal waters are counted towards catch limits. The proposed rule would not change the current AMs, or enact any additional AMs, for the MHI Kona crab fishery (50 CFR 665.253(b)). As an in-season AM, NMFS will close Federal waters to commercial and non-commercial fishing for Kona crab for the remainder of the fishing year if NMFS projects that the fishery will reach the ACT. If a closure occurs, NMFS will publish a document to that effect in the **Federal Register** at least 7 days in advance of the closure. We will also request the State of Hawaii notify Commercial Marine License holders of any changes in the fishery, including an in-season closure or a post-season correction. The state of Hawaii does not have complementary management measures and will therefore not close if Federal waters close and catch will be continue to be attributed to the overall ACT and ACL. As a post-season AM, NMFS will reduce the ACT and ACL in the subsequent fishing year by the overage amount if the landings exceed the ACL in a fishing

year. If catch exceeds the ACT, but is below the ACL, a post-season correction would not be applied.

This proposed rule is consistent with recommendations made by the Council at its 195th meeting in June 2023, and the proposed 2024-2026 catch limits are identical to those implemented in 2020 for fishing years 2020-2023. The ACL is associated with a 38 percent risk of overfishing and the ACT is associated with a 20 percent risk of overfishing. According to the 2019 stock assessment, the Kona crab fishery is neither overfished nor experiencing overfishing. Furthermore, the fishery did not exceed the ACL of 30,802 lb (13,972 kg) during fishing years 2020-2023. From 2020 through 2023, an average of 16 commercial marine license holders made 41 trips and landed an average catch of 3,581 lb (1,624 kg) of MHI Kona crab (12 percent of the ACL; 14 percent of the ACT).

NMFS will consider public comments on this proposed rule and will announce the final rule in the **Federal Register**. NMFS must receive any comments by the date provided in the **DATES** section above and will not consider late comments.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the FEP, other provisions of

the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

Regulatory Flexibility Act (RFA) Certification of Finding of No Significant Impact on Substantial Number of Small Entities

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, issued under the authority of the Magnuson-Stevens Act, would not have a significant economic impact on a substantial number of small entities.

The proposed rule would implement an ACL of 30,802 lb (13,972 kg) and an ACT of 25,491 lb (11,563 kg). The proposed ACL and ACT are the same as those implemented during fishing years 2020-2023. This proposed action would not revise, add, or remove current (AMs) in the regulations. The AMs include both an in-season closure in the Kona crab fishery if catch is projected to reach the ACT and a post-season adjustment if catch exceeds the ACL.

This rule would apply to participants in the commercial and non-commercial fisheries for MHI Kona crab. Kona crab catch averaged 3,887 lb (1,763 kg) from 2018-2022, with an estimated ex-vessel value of \$38,013, if all catch were sold, based on the

2022 average price of \$9.78 per lb (\$21.52 per kg). Between 2018 and 2022, the percent sold ranged from 43 to 64 percent. The amount of Kona crab caught each year has generally declined since 2011, when 49 fishermen reported landing 10,979 lb (4,979 kg), although Kona crab catch from 2019 to 2021 generally exceeded catch levels from 2013 to 2018. The 2022 catch was in line with the 2013–2018 catch levels. During the 2021 fishing year, 18 fishermen reported landing 3,945 lb (1,789 kg). In 2022, 19 fishermen reported landing 2,533 lb (1,149 kg).

NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and its combined annual receipts are not in excess of \$11 million for all of its affiliated operations worldwide. Based on available information, NMFS has determined that all vessels engaging in the commercial and non-commercial fisheries for Kona crab (North American Industry Classification System (NAICS) Code: 11411) are small entities. That is, they are engaged in the business of fish harvesting, are independently owned or operated, are not dominant in their field of operation, and have annual gross receipts not in excess of \$11 million. Because all of the participants are small entities, there would be no

disproportionate economic impacts between large and small entities.

Even though this proposed action would apply to a substantial number of vessels, this action should not result in significant adverse economic impact to individual vessels. The proposed ACL and ACT are the same as those implemented during fishing years 2020-2023. The proposed ACL is not expected to result in an expansion of the fishery by new fishermen looking to take advantage of the higher quota compared to previous years. Given the offshore fishing grounds for Kona crab, it would take a significant financial investment to become active in the fishery if fisherman did not already own a vessel and the required, specialized gear. The proposed action, if implemented, is not expected to constrain the fishery, given that the proposed ACL and ACT are both more than double the highest catch recorded over the past 12 years (10,979 lb (4,979 kg) in 2011). Furthermore, the fishery would still be subject to the State of Hawaii's regulations. This continued management, in combination with a low number of commercial marine license holders, is not expected to result in a surge of new fishery entrants.

The proposed action does not duplicate, overlap, or conflict with other Federal rules and is not expected to have significant impact on small entities, organizations, or governmental jurisdictions. The proposed action also will not place a substantial number of small entities, or any segment of small entities, at a significant competitive disadvantage to

large entities. For the reasons above, NMFS does not expect the proposed action to have a significant economic impact on a substantial number of small entities. As such, an initial regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 665

Accountability measures, Annual catch limits, Fisheries, Fishing, Hawaii, Kona crab, Pacific Islands.

Dated: January 30, 2024.

Samuel D. Rauch III,

*Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.*

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 665 as follows:

PART 665 – FISHERIES IN THE WESTERN PACIFIC

1. The authority citation for 50 CFR part 665 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 665.253, revise paragraph (b)(1) to read as follows:

§ 665.253 Annual Catch Limits (ACL) and Annual Catch Targets (ACT) .

* * * * *

(b) * * *

(1) In accordance with § 665.4, the ACLs for each fishing year are as follows:

Table 1 to Paragraph (b) (1)

Fishing year	2024	2025	2026
ACL (1b)	30,802	30,802	30,802
ACT (1b)	25,491	25,491	25,491

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